


CARLSMITH BALL LLP

DAVID LEDGER  
ELYZE MCDONALD  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue, P.O. Box BF  
Hagåtña, Guam 96932-5027  
Tel No. 671.472.6813

Attorneys for Defendant  
Japan Airlines International Co., Ltd.

**FILED**

DISTRICT COURT OF GUAM

NOV 13 2006 

MARY L.M. MORAN  
CLERK OF COURT

IN THE DISTRICT COURT OF GUAM

ROBERTO J. DEL ROSARIO and  
MELANIE DEL ROSARIO,

Plaintiffs,

vs.

JAPAN AIRLINES INTERNATIONAL  
CO., LTD.,

Defendant.

CIVIL CASE NO. CIV04-00028

**DEFENDANT'S SECOND REQUEST  
FOR ADDITIONAL TIME TO FILE  
BRIEF REGARDING SETTLEMENT  
PROCEEDS; DECLARATION OF  
SERVICE**

Defendant Japan Airlines International Co., Ltd. ("JAL") seeks a further extension of time to file a memorandum regarding the disposition of settlement proceeds in this case. As the Court is aware, JAL contends it settled this action with Plaintiff for \$175,000, whereas Plaintiff contends otherwise and has appealed this Court's order enforcing the settlement. Also, JAL notes that the additional time requested is not the result of delay on the part of JAL. Rather, as explained below, the additional time is needed to accommodate concerns of the other counsel involved in this action. Plaintiff Roberto J. Del Rosario's counsel of record, Howard Trapp, and his former counsel, William Gavras, do not oppose this request, and have agreed to JAL's representation of their non-opposition.

**ORIGINAL**

As advised in JAL's original request, filed on October 24, 2006, JAL, through its attorney David Ledger, proposed to Mr. Gavras terms pertaining to the disposition of the settlement proceeds. Though Mr. Gavras tentatively agreed with Ledger's proposal, Gavras was awaiting Mr. Trapp's return from an off-island trip to finalize an agreement between Gavras and Trapp. In other words, Mr. Gavras' agreement with Ledger was contingent on being able to conclude certain arrangements with Mr. Trapp. Mr. Gavras and Mr. Trapp now appear to have reached a tentative compromise on issues which do not concern JAL, and are awaiting Mr. Del Rosario's consent to those terms.<sup>1</sup> Should Mr. Del Rosario consent, it appears that certain issues will not need to be briefed to the Court. Indeed, it appears that JAL may simply deposit the settlement proceeds with the Court and that the funds will remain intact until such time as the appeal is decided.

In light of these developments, and because counsel and the parties await Mr. Del Rosario's response, JAL seeks an extension of the briefing deadlines in order to ensure it does not miss a briefing deadline to its prejudice in the event Mr. Del Rosario does not accede to the tentative terms agreed to between JAL and his current and former counsel.

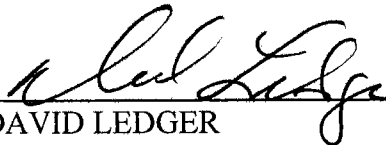
Therefore, JAL requests additional time of two weeks, or November 28, 2006, to file any briefs regarding the disposition of the settlement funds. Should the Court allow this extension, the due date for the briefs in response by Mr. Del Rosario and Mr. Gavras would be extended to December 4, 2006.

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<sup>1</sup> Progress has also been made on this issue as Mr. Del Rosario, through his counsel of record, now concedes that he is not entitled to recover interest on the \$175,000 in that it was Del Rosario who declined to accept the \$175,000 when JAL tendered it and instead filed an appeal to set aside the settlement.

Respectfully submitted this 13th day of November, 2006.

CARLSMITH BALL LLP

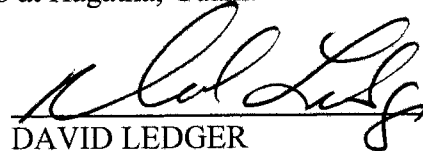
  
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DAVID LEDGER  
ELYZE McDONALD  
Attorneys for Defendant  
Japan Airlines International Co., Ltd.

**DECLARATION OF SERVICE**

I, David Ledger, hereby declare under penalty of perjury of the laws of the United States, that on the 13th day of November 2006, I will cause to be served, via hand delivery, a true and correct copy of the DEFENDANT'S SECOND REQUEST FOR ADDITIONAL TIME TO FILE BRIEF REGARDING SETTLEMENT PROCEEDS upon Plaintiffs Counsel of record as follows:

Howard Trapp, Esq.  
Howard Trapp Incorporated  
200 Saylor Building  
139 Chalan Santo Papa  
Hagåtña, Guam 96910

Executed this 13th day of November 2006 at Hagåtña, Guam.

  
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DAVID LEDGER